

MICHIGAN'S LIQUOR LAWS & RULES



A Guide for Off-Premise Retail Liquor Licensees

October, 1999

MICHIGAN LIQUOR CONTROL COMMISSION
Department of Consumer and Industry Services (CIS)

A Guide for Off-Premise Retail Liquor Licensees

<i>Preface</i>	1
<i>Introduction</i>	1
The Liquor Control Code & Administrative Rules	2
Enforcement of Liquor Laws and Rules	3
Types of Retail Liquor Licenses and Permits	
Table of Contents	
<i>Illegal Sales</i>	4
Minors	6
Examining the Identification	8
Intoxicated Customers	10
Dram Shop Liability	
<i>Prohibited Conduct</i>	12
Drugs, Violence, Gambling, Sexual Activity, etc.	
<i>Operating the Licensed Business</i>	13
Hours and Days of Operation	14
License and Location	16
Purchases and Sales	17
Wholesalers	17
Taxes	20
Liquor Control Commission Offices	
i	

Preface

Whether liquor licensees serve mixed drinks to people attending a convention in Detroit, serve a bottle of wine to dinner guests at a restaurant in Marquette, or sell a six-pack of beer to a group on their way to a private beach party in Grand Haven, they are playing an important role in Michigan's dynamic hospitality industry. However, this role as a businessperson and host demands accountability for the selling and serving of alcoholic beverages — social and legal accountability which may not be demanded of other types of retailers for the goods they sell. In fact, state law requires that 55% of all retail liquor license fees collected in Michigan be returned to local law enforcement agencies specifically for use in enforcing the liquor law and rules.

The goal in developing this guide is to provide an easy-to-use reference for Michigan liquor licensees and their employees. Therefore, the focus of the guide is on the laws and rules which traditionally have resulted in the most licensee violations.

We have tried to write this material in a style that will be readily understood by most licensees. **However, it is important to realize that this booklet is an information tool and not a legal document — nothing in this guide changes, replaces, or supercedes the Michigan Liquor Control Code, the Michigan Liquor Control Commission (MLCC) Administrative Rules or any other Michigan statutes.** Anyone desiring precise legal language may purchase a copy of "The Michigan Liquor Control Code, Rules, and Related Laws Governing the Sale and Manufacture of Alcoholic Beverages" which is available for \$5.00 from the MLCC. The Code can also be printed from our web site at [HTTP://www.cis.state.mi.us/lcc](http://www.cis.state.mi.us/lcc)

General information is presented at the front of the guide, followed by a synopsis of liquor laws and rules arranged by subject. Due to the seriousness of certain violations, the first topics covered are those dealing with serving minors and intoxicated persons followed by brief information on the Dram Shop liability statutes. The remaining items deal with prohibited conduct, miscellaneous illegal activities, and the laws and rules that govern the operation of a licensed business. Questions and Answers are included at the end of each section to provide examples of how the laws and rules may be applied in real situations.

If you have questions about any of the laws or rules (including those which may not be covered in this guide), contact one of the MLCC Enforcement offices listed on the back cover of this guide. Your comments or suggestions for future editions of the guide are always welcomed.

THE MICHIGAN LIQUOR CONTROL COMMISSION

Jacquelyn A. Stewart, Chairwoman
Walter Keck, Administrative Commissioner
Seymour Podolsky, Administrative Commissioner
Ena Weathers, Hearing Commissioner
James M. Storey, Hearing Commissioner

INTRODUCTION

The Liquor Control Code & Administrative Rules

References Used

The citations for references inserted in this guide are:

MCL — Refers to the citation number in the Michigan Compiled Laws.

Rule — Refers to the citation number in the Michigan Administrative Code.

The reference sources provide specific details on the topics being covered.

Availability of References

Because this guide does not cover every aspect of the laws and rules, and because it does not contain exact legal language, you may want to purchase a copy of *The Michigan Liquor Control Code, Rules, and Related Laws Governing the Sale and Manufacture of Alcoholic Beverages* as described in the Preface.

The Liquor Code and Administrative Rules are also available for viewing and printing from our web site at:

[HTTP://www.cis.state.mi.us/lcc](http://www.cis.state.mi.us/lcc) .

Definitions

Liquor & Alcoholic Beverage

The Liquor Control Code (436.1105) defines “alcoholic liquor” as any beverage “containing one-half of one percent or more of alcohol by volume.” This includes beer, wine and distilled spirits. However, in this guide, “**liquor**” is used to mean “distilled spirits” which is commonly understood to mean an alcoholic beverage with 21% or more alcohol by volume. “**Alcoholic beverages**” in this booklet means any beverage intended for human consumption that contains more than one-half of one percent alcohol by volume.

Minor

For most legal purposes, a minor is defined as someone who is less than 18 years old. However, for purposes of buying, consuming, or possessing alcoholic beverages for personal use, a person who is less than 21 years of age is considered a minor. **The term “minor” used in this guide indicates a person who is less than 21 years old.**

Sale

A Sale as defined by the Liquor Commission is more than what is normally considered an exchange of money and goods:

- a. “Sale,” as defined in the Liquor Control Code, also includes the “exchange, barter or traffic, furnishing or giving away of alcoholic beverages.”
- b. The sale is considered complete when the exchange of possession of the alcoholic beverages takes place. Pay particular attention to this concept when considering questions of legal hours, furnishing alcohol to minors, and furnishing alcohol to intoxicated persons.

Authority (MCL 436.1201(4))

In addition to MLCC investigators, the following officials have the authority and duty to enforce Michigan liquor laws:

Michigan State Police

City and Township police officers

County sheriffs and deputies

Village marshals, constables, or police officers

State University or Community College police officers

Inspections and Investigations (MCL 436.1217)(2)

Investigators for the Commission, and state or local law enforcement officials may inspect any licensed business that sells alcoholic beverages to determine compliance with Michigan's liquor laws and rules. Inspections may be made during normal business hours, or at any time when the premises are occupied by the licensee or his/her employees.

Obstructing Liquor Investigators or Local Police (Rule 436.1011(3))

Licensees and employees shall not hinder or obstruct a police officer or an investigator of the Commission who is investigating or inspecting the licensed premises for Liquor Code and Rule requirements.

Citations for Violations of Liquor Laws and Regulations

Anyone who has the authority to enforce Michigan's liquor laws and rules may report alleged violations to the MLCC. **Violation Reports** are sent to the Office of the Assistant Attorney General (AAG) assigned to the Commission. If the AAG determines that there is evidence that a violation took place, a formal **Violation Complaint** will be filed against the licensee.

It is common practice for the AAG to file a separate charge in the Violation Complaint for each section of the Liquor Control Code and Administrative Rule that was reportedly violated. For example, if an enforcement officer observes a bartender selling alcoholic beverages to someone under age 21, and the customer is also observed consuming the alcoholic beverage, the AAG may cite (1) a violation of the Liquor Control Code for the selling of the alcoholic beverage to the person under 21, and (2) a violation of the Administrative Rules of the Commission for allowing the underage person to consume alcoholic beverages on the licensed premises.

INTRODUCTION

Types of Retail Licenses and Permits

Off-Premise Retail Licenses

These licenses are issued for the type of business where alcoholic beverages are sold for consumption elsewhere, and where consumption on the premises of the retailer is not allowed. The two types of off-premise licenses are:

- ! SDD** Specially Designated Distributor. This license permits the licensee to sell liquor and mixed spirit drinks (distilled only) for consumption off the licensed premises.
- ! SDM** Specially Designated Merchant. This license allows the licensee to sell only beer and wine for consumption off the licensed premises.

Usually, an SDD licensee, commonly referred to as a package liquor dealer, will also hold an SDM license.

Permits

Special Activity Permits are available to eligible retail licensees for a variety of activities. An inspection fee is charged for these permits and for most of them, local police approval must be obtained before the Commission will grant the permit. A detailed fact sheet on Special Permits is available from the MLCC.

- Sunday Sales* **For Off-premise (SDD only).** Allows the sale of Spirits between noon and midnight on Sundays if permitted by the local government. (Permit not needed for beer and wine sales).
- Living Quarters* **For Off-premise (SDD, SDM) licensees.** Allows living quarters to be directly connected to the licensed premises. Local police approval is required.
- Direct Connection* **For all retail licensees.** Allows connecting the licensed business to an unlicensed area not under direct control of the licensee. Local police approval is required

ILLEGAL SALES

Minors

- ▶ **Do not sell, furnish or give alcohol to anyone under 21 years of age.** [MCL 436.1801 and 436.1701]
- ▶ **Do not allow a person under 21 years of age to consume or possess for consumption, alcoholic beverages on the licensed premises.** [Rule 436.1009]
- ▶ **Do not allow a person who is less than 18 years of age to sell alcoholic beverages.** [Rule 436.1009]

Licensee Penalties

There are serious penalties for selling or furnishing alcoholic beverages to minors:

<i>Misdemeanor</i>	A liquor licensee or an employee of the licensee who sells or furnishes alcoholic beverages to a minor may be found guilty of a misdemeanor.
<i>MLCC Violations</i>	A licensee who sells or furnishes to a minor, or whose employees sell or furnish to a minor or who allow a minor to consume alcoholic beverages, may be charged with a violation of the Liquor Control Code or Rules. Penalties for violations, especially repeat violations, can be very severe, including the loss of the liquor license and fines up to \$1,000 per charge.
<i>Loss of license</i>	The local unit of government can request that the MLCC revoke the license of an off-premise licensee who has been found guilty of selling alcoholic beverages to minors on three separate occasions in one calendar year.
<i>Dram Shop Liability</i>	The licensee may also be held liable in civil suits when the sale or furnishing of alcoholic beverages is found to be the proximate cause of damage, injury or death of an innocent party. A separate Dram Shop Liability section is located on page 11.

Penalties for Minors

Michigan law does provide for penalties for minors who purchase, attempt to purchase, consume, attempt to consume, possess or attempt to possess alcoholic beverages (MCL 436.1703). The police should write court appearance tickets which usually result in the minor being fined or ordered to attend substance abuse classes. Effective October 1, 1999 the Secretary of State will suspend for 90 days, the drivers license of any minor convicted of using false identification to purchase alcoholic beverages.

ILLEGAL SALES

Minors

Check for ID

Always check the identification (ID) of a person purchasing alcohol in your establishment. The use of false ID is a serious problem for retail licensees and their employees. Minors attempting to purchase alcohol sometimes use altered, counterfeit, or someone else's ID.

Altered This is an ID that has been physically changed after it was issued. Typically only the birth date and year are altered. Here are some tips for spotting an altered ID:

- Numbers have been scratched or bleached out, inked over or cut out and reinserted
- Numbers overlap or are smeared; the laminate may have been peeled back and replaced
- Compare the birth date to the first part of the driver's license number; in some states they are the same (month and year)
- Check for rough spots, especially around the edges and over the photograph

Counterfeit This ID is one that may appear valid, but is fraudulent. Common types of counterfeit identification are birth certificates, driver licenses and ID cards. Counterfeit ID can also be obtained by using legitimate channels, and will *appear to be* authentic. Here are some tips for spotting a counterfeit ID:

- Check the size, thickness and color of the card
- Check the placement, size and typeface of the letters and numbers
- Check the photograph for shading, glare or "red-eye"
- Look for phrases such as "for personal use only," or "Office Use Only"

Someone else's ID The use of someone else's ID is also a common occurrence. It may be borrowed, purchased, or obtained illegally. The ID is authentic but does not belong to the person presenting it. Here are some tips for spotting these IDs:

- Compare the photograph and the physical identification to the cardholder and question discrepancies
- Obtain a signature and compare it to the one on the ID
- Ask the cardholder to verify personal data on the card
- Request backup documentation

Detecting False ID

Alterations in driver licenses or ID cards can often be detected with a flashlight. Smudges, alterations and misalignment of seals is apparent and cards issued after June 1987 also have a watermark style coating that is high gloss and more difficult to alter.

ILLEGAL SALES

Examining the Identification

Two types of Michigan driver licenses are currently in use. Because some people may renew these by mail (receiving a validation sticker), both of these types will stay in use for several years.

ISSUED BEFORE JUNE 1998:



▲ White color with blue photo background. "BUCKLE UP" and "DRIVER LICENSE" are printed in blue and stacked on each side of the MICHIGAN heading. Dime-sized state seals are embossed on front side lamination that can be felt or seen from an angle.

ISSUED AFTER JUNE 1998:



▲ White color with bright blue photo background. "Under 21 until (date)" printed directly above picture. Outline of the state and the word MICHIGAN is digitally inserted into the front and is visible when held under a light. Back side displays magnetic stripe and bar code. For details see <http://www.sos.state.mi.us>

Identification Cards

ID cards are similar to driver's licenses. The current card says "Identification Card" on it in black.

ID Checking Tips - The New Michigan License and ID

- If an "Under 21" applicant obtains a new or duplicate license six months in advance of his/her 21st birthday, the license will not have the "Under 21" designation - all ages should be verified by checking the date of birth!
- A "D" at the end of the number in the lower right corner indicates that the license or ID card is a DUPLICATE.
- Make sure the photo, height and eye color match the person in front of you, if any do not match ask for a second piece of ID. People with fake ID's rarely carry back-up identification.

STILL DOUBTFUL?

If you have any doubt about a person's age or the validity of their ID, you have the right to refuse to serve or sell alcohol to them. The possible loss of one legitimate sale is significantly less than the cost of a liquor violation both in the short term and long term operation of your business.

TEST YOURSELF WITH THESE QUESTIONS

- Q. Can you sell beer to a person under 21 years of age if that person is accompanied by a parent?*
- A. No. At no time may alcoholic beverages be sold or furnished to a person under 21 years of age. [MCL 436.1801 and 436.1701] The parent or guardian may not legally purchase alcohol for the minor.**

- Q. A young appearing customer produces a Michigan driver's license and two other pieces of ID indicating an age of 22 years. Your employee believes this customer is only 19 years old. Must your employee sell alcoholic beverages to this customer?*
- A. No. It is your responsibility and that of your employees to ensure that no one under the age of 21 is sold alcoholic beverages. If you or an employee think the person may be under the age of 21, DO NOT SELL alcoholic beverages regardless of the ID shown. [MCL 436.1801 and 436.1701]**

- Q. If you or an employee sell alcoholic beverages to a customer who produced a Michigan driver's license and two other pieces of ID indicating his or her age to be 22 years and it is later determined by a police officer that the customer is actually 19 will YOU be charged with a violation? If so, how will it be treated by the Commission?*
- A. Yes. You may be found guilty of selling alcohol to a minor. However, proof that a driver's license or other acceptable ID was diligently examined can be used as a defense. Depending on the appearance of the individual and the quality of the proof of age used, consideration of these factors could be used regarding the penalty. [MCL 436.1701]**

- Q. A clerk in your party store was very busy serving customers. Two youthful-looking boys purchased a case of beer from the clerk who felt too busy to check for ID. A police officer stopped the boys and discovered they were only 16 years old. Can the clerk get into trouble?*
- A. Yes. A person who knowingly sells to someone under age 21, or who fails to make a diligent inquiry as to the customer's age, may be arrested and charged with a misdemeanor. The licensee can also be charged with a violation before the commission because the licensee is responsible for the acts of employees. [MCL 436.1801 and 436.1701]**

TEST YOURSELF WITH THESE QUESTIONS - Continued

- Q. An employee of your party store delivers an order, which includes alcoholic beverages, to a customer's home. The customer who ordered and paid for the merchandise is not at home. Can the employee deliver the order to the customer's 19 year old daughter?*
- A. No. This is considered a sale to a minor since the definition of a sale also includes "furnishing" alcoholic liquor. [MCL 436.1701 and Rule 436.1527]**

- Q. You employ a 16 year old as a cashier in your party store. Can she ring up and collect the money for the sale of alcoholic beverages?*
- A. No. An employee selling alcoholic beverages must be at least 18 years old. However, the employee can do other jobs which do not involve alcoholic beverages. [Rule 436.1009]**

ILLEGAL SALES

Intoxicated Customers

! Do not sell or serve alcoholic beverages to a person who is intoxicated.
[MCL 436.1801 and 436.2025, and Rule 436.1005]

! Do not allow an intoxicated person to consume alcoholic beverages on the licensed premise.
[Rule 436.1005]

Licensee Penalties

There are serious penalties for selling or furnishing alcoholic beverages to a visibly intoxicated person:

- Misdemeanor*** A liquor licensee who sells or furnishes alcoholic beverages to a visibly intoxicated person may be found guilty of a misdemeanor (MCL 436.1909).
- MLCC Violation*** A licensee who sells or furnishes alcoholic beverages, or whose employees sell or furnish alcoholic beverages, to a visibly intoxicated person may be charged with a violation of the liquor laws. Penalties for violations, can be severe and can include loss of the license.
- Dram Shop Liability*** The licensee may also be held liable in civil suits when the sale or furnishing of alcoholic beverages to a visibly intoxicated person is found to be the proximate cause of damage, injury, or death of an innocent person. *(A separate section on Dram Shop Liability is included on page 11 of this booklet.)*

(Continued)

Intoxicated Customers (Continued)

Signs of Intoxication

It is the responsibility of licensees and their employees to make certain that anyone who enters the licensed premises in an intoxicated condition not be allowed to purchase any alcoholic beverages.

Intoxication is a gradual process of losing control of emotional, mental, and physical capabilities caused by excessive alcohol consumption. Because intoxication is a progressive reaction, licensees and employees need to understand and be able to identify when customers are intoxicated. Look for some of these signs:

- Loud or slurred speech, use of foul language
- Lack of focus and eye contact
- Making irrational or inappropriate statements to other customers
- Complaining about price of product
- Swaying, staggering or falling down
- Difficulty handling money; making or picking up change

Training

Many excellent training courses are available to aid licensees and their employees in identifying intoxicated persons. Contact your association, the local police or sheriff's department, or the liquor control commission for information and a schedule of trainers and sessions.

Intoxicated Licensee Or Employees

No person on the licensed premises, including the licensee or employees, should be intoxicated.

TEST YOURSELF WITH THESE QUESTIONS

- Q. *The police receive a complaint from a person who lives next to your party store that several persons are drinking alcoholic beverages and creating a disturbance in your parking lot. When the police arrive, they determine that the alcoholic beverages being consumed were purchased at your party store and that the customers are of legal age. Can YOU be cited for a liquor violation?*
- A. **Yes, if you allowed the persons to drink the alcoholic beverages in your parking lot. An off-premise licensee is responsible for actions in the licensed business and on all property next to the licensed business which is controlled by the licensee. [Rule 436.1523(2)]**
- ***
- Q. *Are slurred speech, red eyes and or dilated pupils, slow response time to questions, and loud boisterous behavior signs of intoxication which might prevent you from selling to a customer?*
- A. **Yes. A customer displaying some or all of these characteristics is likely to be intoxicated. It is in your best interest NOT to sell this customer any alcoholic beverage.**

ILLEGAL SALES

Dram Shop Liability

- ! Sales of alcoholic beverages to persons under 21 and to visibly intoxicated persons can result in civil liability suits when the sale is shown to be the proximate cause of damage, injury or death of an innocent person. [MCL 436.1801]
- ! Effective April 1, 1988, all applicants for retail liquor licenses and existing retail liquor licensees are required to file proof of financial responsibility of not less than \$50,000 before a license is issued or renewed [MCL 436.1803]

YOU SHOULD ALSO KNOW

Liability Dram Shop statutes in Michigan, like those in other states, acknowledge a social problem by imposing a legal responsibility on the retail liquor licensee. The purpose of the Dram Shop laws is to provide legal recourse for an innocent person who is injured when the sale or furnishing of alcohol to a minor or an intoxicated person is proven to be a proximate cause of damage, injury or death.

This civil liability is separate from violation penalties which the Commission may impose, and criminal penalties which the courts may impose. **You can lessen your financial vulnerability by never serving alcoholic beverages to people who are less than 21 years old, or who are visibly intoxicated.**

Lawsuit Limitations There are certain provisions in the Dram Shop liability laws which place limits on civil suits. From the licensee's standpoint, the significant provisions are:

- ! A rebuttable presumption that any licensee, other than the last one to sell or furnish alcohol to the underage or visibly intoxicated person, is not liable.
- ! Neither the visibly intoxicated person nor any person who has lost the financial support, services, love, guidance, society, or companionship of the visibly intoxicated person, has a cause for action against the licensee.

Financial Responsibility As of April 1, 1988, all retail liquor licenses applicants and retail liquor licensees must provide to the Liquor Control Commission proof of financial responsibility of at least \$50,000. A licensee must maintain at all times a minimum of \$50,000 as full or partial payment of a judgment awarded as the result of a Dram Shop lawsuit.

The method most often used by licensees to meet this requirement is purchase of a liquor liability insurance policy worth at least \$50,000. Other acceptable means of complying include depositing \$50,000 in cash or unencumbered securities with the Commission.

TEST YOURSELF WITH THESE QUESTIONS

Q. What happens if the Commission receives a cancellation of the Dram Shop coverage?

A. After verifying that the business is still operating, a letter and Commission Order of Suspension are sent to the licensee with a new LC-95 “Proof of Financial Responsibility” form.

Q. What happens if I have sent my license in for escrow and a cancellation notice is received?

A. Licensing does not send an Order of Suspension to the licensee in this case. However, the records are marked to indicate that prior to reactivation of the license, a new proof of financial responsibility will be required.

Q. What action is taken if no proof of financial responsibility is received by the suspension date?

A. Licensing staff notifies the Enforcement Division to confiscate the license according to the provisions of the Suspension Order.

Q. Why do we receive the Order of Suspension long before the new proof is required?

A. The law requires both the licensee and insurance carrier to provide at least 30 days notice to MLCC that the insurance policy will be canceled or terminated. The Licensing Division attempts to give you ample time to renew the coverage or make the appropriate premium payment to remain in compliance with the statutory requirements.

Q. Is it necessary to provide proof of financial responsibility every year with the renewal application?

A. Liquor Liability coverage only terminates upon written notice from the carrier or provider which may be received at any time throughout the year. Unless your coverage has been canceled during the renewal processing period, you do not need to send documents substantiating your coverage.

Q. If I sign the LC-95 form indicating coverage or send a paid receipt, will this stop a cancellation?

A. No. The LC-95 requires certification of coverage by an authorized agent or representative of the insurance carrier or institution providing such coverage.

PROHIBITED CONDUCT

Drugs, Violence, Gambling, Nudity, Sexual Activity

- | | |
|-------------------------------------|--|
| <i>Drugs, Controlled Substances</i> | <ul style="list-style-type: none">• Do not allow the sale, possession, or consumption of any controlled substances on the licensed premises. [Rule 436.1011]• Do not allow narcotics paraphernalia to be sold, exchanged, used or stored on the licensed premises. [Rule 436.1011] |
| <i>Violence, Fighting, Weapons</i> | <ul style="list-style-type: none">• Do not allow fighting, brawling, or the improper use of any weapons on the licensed premises. [Rule 436.1011] |
| <i>Gambling, Gaming Devices</i> | <ul style="list-style-type: none">• Do not allow illegal gambling or gaming devices on the licensed premises. [Rule 436.1013] <p>Any illegal gambling device or items used for illegal gambling purposes as determined under Michigan laws, are subject to confiscation and destruction if found on the licensed premises regardless of whether they are owned by the licensee or another party.</p> |

Awareness is the Key

- | | |
|------------------------|--|
| <i>Observe</i> | It is your responsibility as the licensee to always maintain control of the licensed premises. This means that you and your employees must always be observant of customers and situations. |
| <i>Evaluate</i> | If you or your employees observe what appears to be an illegal act, you need to evaluate the situation. Some situations can be easily handled by talking to the customers. Others may require a more forceful stance. Some situations may be dangerous for either you or your employees or other customers. Always evaluate the people and the situation to determine the best course of action. |
| <i>Act</i> | Since you do not have enforcement authority, you cannot arrest anyone. However, you or your employees can demand that a customer(s) leave the premises. If the situation appears threatening, call the local police. Be aware, however, that excessive police calls may result in violations being charged to you or a request from the local unit of government that the Liquor Control Commission revoke or not renew your license. Don't let your licensed premises become a place noted for illegal activities and thereby jeopardize your liquor license and your standing in the business community. |

TEST YOURSELF WITH THESE QUESTIONS

Q. You see two young men go to the back of your store and exchange a baggie with something in it for cash. If the substance in the baggie is marijuana could you be charged with a liquor code violation?

A. Yes. Rule 436.1011 prohibits the sale, possession or consumption of any controlled substances on the licensed premises. Furthermore, no narcotic paraphernalia is allowed on the premises either.

Q. Approaching the cash register is a scowling man with a six pack of beer. He places the beer on the counter and roughly bumps the person already in line. A few nasty words are exchanged and the bumped customer flashes a pocket knife at the scowling man. In view of the fact that the obnoxious customer probably needs to be taught a lesson, should the cashier allow him to be threatened with the pocket knife?

A. No. Allowing fights, brawling or the improper use of any weapon on the licensed premises is illegal. Consider also that as the licensee you may be sued by either or both parties. [Rule 436.1011]

OPERATING THE LICENSED BUSINESS

Hours & Days of Operation

Monday through Saturday ! Do not sell alcoholic beverages (beer, wine, or liquor) between the hours of 2 a.m. and 7 a.m. Monday through Saturday. [Rules 436.1403 and 436.1503]

Sunday Sales ! Do not sell beer, wine or liquor on Sunday between 2 a.m. and 12 noon. [MCL 436.2113 and 436.1503]

! Do not sell liquor between noon and midnight on Sunday unless you are issued a Sunday Sales permit by the Liquor Control Commission. [MCL 436.2115]

Christmas Sales ! Do not sell any alcoholic beverages between 9 p.m. on December 24 (Christmas Eve) and 7 a.m. on December 26, (the day after Christmas).
* However, the establishment may be open to sell other goods and services.

! If December 26 is on a Sunday, the sale of alcoholic beverages is governed by the Sunday Sales law. [MCL 436.2113(5) and Rule 436.1403]

New Years Sales ! Do not sell alcoholic beverages between 2 a.m. and 7 a.m. on New Years Day. [Rule 436.1503]

Election Day Sales ! Unless prohibited by local ordinances, alcoholic beverages may be sold on Election Day during the regular hours. Check with your local governing body regarding restrictions against alcohol sales on election days. [MCL 436.2113]

TEST YOURSELF WITH THESE QUESTIONS

Q. *You have a small neighborhood convenience store with licenses to sell beer, wine and liquor. Can you open on Christmas Day?*

A. **Yes. However, you cannot sell any alcoholic beverages.** [MCL 436.2113]

Q. *You have a small neighborhood convenience store and have been thinking about opening on Sunday. Can you sell alcoholic beverages after 12 noon?*

A. **Yes but if you want to sell spirits you must have a Sunday Sales Permit issued by the Liquor Control Commission and Sunday Sales are legal in your governmental unit. To obtain a Sunday Sales Permit application contact the Liquor Control Commission Licensing Division at (517) 322-1400.**
[MCL 436.2115]

NOTE: *You can sell beer or wine on Sunday after 12 noon without a Sunday Sales Permit (unless prohibited by local ordinance), but you need the Sunday Sales Permit to sell spirits on Sunday.*

Q. *A customer in your 24-hour grocery store purchases a case of beer, along with other merchandise at 12:30 a.m. He asks an employee to hold these purchases for a later pick up. At 2:30 a.m. the customer returns to the store and the employee hands over the merchandise, including the beer. Has a violation taken place?*

A. **Yes. Remember, the sale is not completed until the customer takes possession of the merchandise.**
[Rule 436.1503]

OPERATING THE LICENSED BUSINESS

License & Location

- **Do not sell or transfer an interest in a licensed business without written approval of the Commission.** [MCL 436.1529 and Rule 436.1023]
- **Do not obtain a license for the use or benefit of a person whose name does not appear on the license.** [MCL 436.1529 and Rule 436.1041]
- **Do not alter the size or lease a portion of the licensed premise without Commission approval.** [Rule 436.1023]
- **Do not close the business for more than one month without returning the license for escrow.** [Rule 436.1047]
- **Be sure to renew a retail liquor license by May 1 of each year.** [MCL 436.1501]

TEST YOURSELF WITH THESE QUESTIONS

Q. *You are a sole stockholder in a licensed corporation. You need additional funding so you sold half of your corporate stock to a friend and then notified the Commission. Did a violation take place?*

A. **Yes. Commission approval is required as stockholders must be fingerprinted and investigated and approved prior to obtaining 10% or more of the corporate stock in a licensed corporation.** [Rule 436.1115]

In addition, before July 1 of each year, licensed corporations must notify the Commission of all transfers of stock in the corporation which have occurred during the previous licensing year (the period between May 1 and April 30) whether or not the total shares sold equals 10% or more of the outstanding shares. [MCL 436.1529]

Q. *You decided that your licensed business does not generate sufficient funds to defray your operating costs. You want to seal off a small portion of the licensed premise and lease it to an acquaintance to open a flower shop. Would this change in business space create a problem with your liquor license?*

A. **Yes. A licensee may not add or drop space from the licensed premise without prior Commission approval. The Commission requires that the licensee be legally responsible for the entire licensed premises so licensed premises may not be leased or rented to others unless prior written permission is given by the Commission.** [Rule 436.1023]

Q. *Must you get permission from the Liquor Control Commission to transfer the location of your licensed business to a better location on the same street or in the same neighborhood?*

A. **Yes. You cannot move your business without Commission approval prior to moving.** [Rule 436.1023]

Q. *Must you get permission from the Liquor Control Commission before adding or dropping a partner?*

A. **Yes. You must get Commission approval prior to any change in ownership.** [MCL 436.1529 and Rule 436.1023]

Q. *Your landlord wants you to sign a new lease wherein he receives 5% of the net profits from your business as the annual rent. Is the landlord within his/her rights to request this?*

A. **No. Only the licensee may take net profits from the business.** [Rules 436.1041 and 436.1117]

OPERATING THE LICENSED BUSINESS

Purchases & Sales

BUYING AND SELLING ALCOHOLIC BEVERAGES

All Licensees

- **Do not purchase beer, wine, or liquor from unauthorized sources.** All retail licensees must buy beer and wine from their designated licensed wholesalers. All liquor must be purchased from the state and delivered by an Authorized Distribution Agent with one exception — an on-premise licensee may purchase up to 9 liters of spirits from a retail licensee per month. [MCL 436.1203, .1205 and Rule 436.1033]
- **Do not sell alcoholic beverages below cost.** [Rule 436.1055]
- **Do not sell package liquor at any price other than the price established by the Liquor Control Commission.** [MCL 436.1229, MCL 436.1233, and Rule 436.1529] All alcoholic liquor purchases must be for cash only. [MCL 436.2013]

TEST YOURSELF WITH THESE QUESTIONS

- Q. *A frequent customer of your SDD party store asks for a certain brand of liquor as part of a large order. You do not have this brand in stock. In order to satisfy your customer and not lose future sales, you send an employee to a nearby package liquor store to purchase the missing items. Has a violation taken place?*
- A. **Yes. An SDD licensee can only purchase spirits from the MLCC with delivery by an authorized distribution agent. An SDM licensee can only purchase beer and wine from a wholesale licensee.** [Rule 436.1033]
- ***
- Q. *May you sell homemade wine or beer?*
- A. **No. A licensee may not sell alcoholic beverages that are not purchased from the MLCC with delivery by an Authorized Distribution Agent or a licensed wholesaler.** [Rule 436.1033]
- ***
- Q. *Your SDD party store regularly sells 10 to 12 bottles of liquor to the bar next door. Because the bar is a regular customer and buys large amounts, you give a 10% discount off the retail price set by the Commission and collect payment monthly. Is this a violation?*
- A. **Yes. SDD licensees must sell liquor at the uniform price established by the Commission. SDD's are only allowed to sell (and the on-premise is only allowed to buy) 9 liters of spirits per month. SDD licensees must also sell for cash and cannot allow collection of monthly payments.** [MCL 436.1229, MCL 436.1233 and .2013, and Rule 436.1033]
- ***
- Q. *A beer truck driver tells you that if you buy 30 cases of a certain brand, an additional 2 cases will be included with the order at no charge. Is this a violation?*
- A. **Yes. Both you (as the retail licensee) and the wholesaler would be cited before the Commission. The retail licensee cannot accept purchasing incentives of any kind, including free alcoholic beverages. The wholesaler can only sell at the posted price.** [MCL 436.1609; Rule 436.1035]

OPERATING THE LICENSED BUSINESS

Wholesalers

- **Do not accept aid or assistance from wholesalers. They cannot pay for store floor space! In 1999, 26 violations were issued for giving or receiving aid or assistance. [MCL 436.1609]**
- **Do not allow selling or purchasing of alcoholic beverages on credit [MCL 436.2013]**
- **Do not allow the sales or importation of any non-approved alcohol product. All alcohol must be obtained via an MLCC authorized agent or distributor, person licensed by the Commission or by prior written authority of the Commission. [MCL 436.1203]**

Taxes

Licensees must comply with state and federal tax requirements on the retail sale of alcoholic beverages:

- Federal Tax - the base price contained in the liquor price list includes a \$13.50 tax against each proof gallon.
- State Taxes - **Specific Taxes** - specific taxes on liquor are collected by the Commission at the time of sale to the retail licensee. All specific taxes are calculated on the base price. These taxes will be shown on the licensee's invoice. The specific taxes include:
 - 4% - distributed to School Aid Fund
 - 4% - distributed to the General Fund
 - 4% - distributed to the Conventional Facility Development Fund
 - 1.85% - distributed to the Liquor Purchase Revolving Fund
- Michigan Sales Tax is computed on top of the "SDD shelf price" for liquor shown in the MLCC price list for off-premise licensees. The sales tax **cannot** be included in the shelf price or the advertised price but is collected from the consumer at the time of retail sale. **The licensee must send all sales taxes to the Michigan Department of Treasury.**

TEST YOURSELF WITH THESE QUESTIONS

- Q. *Can I advertise a special price on a certain brand of alcoholic beverage?*
- A. **Yes, with certain restrictions. Off-premise retail licensees are allowed to advertise specific brands and prices in any media (newspapers, radio, TV, billboards and signs both at the retail establishment and elsewhere) provided:**
- **You do not advertise or sell any alcoholic beverage at less than your cost.**
 - **You do not receive any aid assistance from a wholesaler or manufacturer.**
[MCL 436.1609, Rule 436.1035, Rule 436.1319]
 - **All Spirits must be sold at current MLCC book price and the book must be available to customers for review. [Rule 436.1505 and Rule 436.1529]**

TEST YOURSELF WITH THESE QUESTIONS

- Q. *To bring people into my party store I would like to have a contest to give away some popular advertising*

cut-outs (Ex. A life size Elvira). Is this acceptable to the Commission if entry into the contest is not dependant upon a purchase?

A. **Yes.**

Q. *Can I provide free bottle or can openers to my customers?*

A. **No. Administrative Rule 436.1523 prohibits providing free openers or opening bottles on the premises.**

LIQUOR CONTROL COMMISSION OFFICES

If you need additional assistance please contact the Commission at any of the these phone numbers or addresses :

Lansing — Michigan Liquor Control Commission

7150 Harris Drive, P.O. Box 30005

Lansing, Michigan 48909

- | | | |
|------------------------|----------------|--------------------|
| • Commission Office | (517) 322-1355 | FAX (517) 322-5188 |
| • Enforcement Division | (517) 322-1370 | FAX (517) 322-1040 |
| • Financial Management | (517) 322-1382 | FAX (517) 322-1016 |
| • Licensing | (517) 322-1400 | FAX (517) 322-6137 |

Farmington — Commission Office

(248) 888-8840

FAX (248) 888-8844

Enforcement District Offices

- | | |
|---|--|
| • Farmington
24155 Drake Road
Farmington, MI 48335
(248) 888-8710
FAX (248) 888-8707 | Escanaba - State Office Building
305 S. Ludington, 2 nd floor
Escanaba, MI 49829
(906) 786-5553
FAX (906) 786-3403 |
| • Gaylord
699-B S. Wisconsin
Gaylord, MI 49735
(517) 732-6797
FAX (517) 732-5321 | Grand Rapids
2942 Fuller, NE
Grand Rapids, MI 49505
(616) 447-2647
FAX (616) 447-2644 |